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BOOK REVIEWS.

A TREATISE ON THE LAW OF NEGLIGENCE. By THOMAS G. SHEARMAN and AMASA A. REDFIELD. Fifth Edition. Two Volumes. New York: Baker, Voorhis & Co. 1898.

The first four editions of Shearman's and Redfield's Law of Negligence have so commended themselves to the judges and lawyers of America that the fifth edition of this work, just published, is certain to receive careful study and thoughtful consideration at the hands of both bench and bar.

After ten more years study and observation on this difficult and confused branch of the law, the learned authors have substantially re-written their book and offer to the profession a work which must add to the high reputation they already enjoy as distinguished students of the Law of Negligence. As in the former editions, it is the tireless energy and patience displayed by the authors in prosecuting their researches over so wide a field, the fine discrimination and power of a concise, clear exposition of the law, and their vigorous and scholarly criticisms of the law of negligence as interpreted in many courts, which give to this work a high rank among legal treatises.

But the practising attorney will appreciate, almost as much, perhaps, the service rendered by the authors in presenting a work which bears on every page the clearest evidence of thoroughness, patience and careful revision. Sixteen thousand cases are cited in the work, and these are selected with a care and avoidance of repetition not often seen. The cases are cited from a great number of jurisdictions, and the authors seldom fail to point out the different roads along which the law has been developed in different states. They also avoid in the notes the error of placing the names of fifteen or twenty cases after a legal proposition, leaving it to the reader to select and subdivide. Usually, each case cited in the notes has a line or two affixed, stating the gist of the decision.

The freedom displayed by the authors in criticising the decisions of even the highest courts is even more noticeable in this edition than in former ones. The reader will find himself unable to agree with the authors on many points, and may not share their readiness to disregard former decisions, but he will recognize that the authors bring to bear on every criticism they offer, thorough research—clear analysis—sound legal sense and a manifest freedom from bias. They plead generally for the constant expansion and extension of liability for negligence instead of attempting—as is the tendency of many jurisdictions—to limit and restrict it by introducing further exceptions. An illustration in point is found in the rule as to the limitations of a master's liability to a servant. The learned authors

do not dispute, of course, the existence of a rule of limitations (apparently, merely because the rule is too well settled to admit of dispute). But they seek to limit the rule by an investigation of the reason for its existence. Differing with Wharton, Pollock, C.B., and Shaw, they argue in substance that "since the rule of limitation must rest on the assumption, that in a majority of cases, so large as to constitute a rule for all others, both employer and employe tacitly understand, when the employment begins, that the employe is not to expect indemnity from the employer against the negligence of other persons in the same common employment," that therefore the sole basis which can justify any limitation of the master's liability to a servant as distinguished from a stranger is that of an implied condition of a contract. "Those adjudications," they conclude, "which can stand under this test, ought to stand; and the sooner all others are overruled, the better will be the state of the law."

The work, in two large volumes, is divided into eight parts, a mention of which will show somewhat of its scope. Part I. General Principles. Part II. Liabilities Arising out of Personal Relations. Part III. Public Corporations and Officers. Part IV. Public Ways. Part V. Carriers. Part VI. Personal Services. Part VII. Management of Property. Part VIII. Measure of Damages.

RULES OF EVIDENCE AS PRESCRIBED BY THE COMMON LAW FOR THE TRIAL OF ACTIONS AND PROCEEDINGS. By GEO. W. BRADNER. Second Edition. Chicago: Callaghan & Co. 1898.

The author of this work, in his conception of his task, has in mind the fundamental principle that "the great object in judicial evidence is the discovery of truth." This voyage of discovery has become somewhat longer in the Second Edition, but the contents of the 700 odd pages of the book are easily reached by a careful and minute table, and the exhaustive table of cases is an additional help.

With reference to the method to be employed in the discovery of truth, the author states in the introduction to the First Edition—and with great reverence—that any attempt to impose a particular logical theory upon the judges or the legal profession would be sheer nonsense. While in actual practice, this is undoubtedly true; still the value of some logical theory in the writing of a text-book is apparent. It is readily admitted that evidence is a difficult subject to arrange—but this very difficulty shows clearly the necessity of some logical theory which can at least be used as a working principle subject to modification and, may be, radical revision as the existing condition of things demands. A logical theory makes a good skeleton upon which to hang the flesh and blood of the innumerable matters of fact with the investigation of which evidence has to deal. This mixture of theory and expediency makes a pleasing whole, but in Mr. Bradner's work the appearance of logical theory seems almost entirely accidental. In his preface to